IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 19893 of 2004

Between:

M/s. Durga Nursery, A Partnership Firm
rep by Managing Partner & Caretaker, Shaik Meeran, Annadana
Samajam road Governorpet, Vijayawada-2, Krishna District

..... PETITIONER

AND

1 The Chief Engineer, Major Irrigation Erramanzil, Hyderabad
2 The District Collector, Krishna District at Machilipatnam
3 The Mandal Revenue Officer (Urban) Vijayawada

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, more particularly a Writ of Mandamus, declaring the action of the respondents herein in not considering the representation filed by the petitioner on 8-9-2004 and the proceedings in Rc. A921/2000 dated 12-11-2001 issued by the third respondent as illegal and ultra vires to the provisions of Article 14 of the Constitution of India besides being arbitrary, capricious and colourful exercise of power and violative of the Principles of Natural Justice.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: GP FOR REVENUE

The Court, at the stage of admission, made the following:

O R D E R:

Questioning the inaction of the second respondent-District Collector in considering the representation, dated 08.09.2004, submitted by the petitioner, and the proceedings in Rc.A921/2000, dated 12.11.2001, the present writ petition is filed.

2. It is averred by the petitioner-M/s.Durga Nursery that the lease was granted up to 6.12.1978 in favour of one Mr.M.Laxminarayana, who is father of Mr.M.Ramakrishna Rao, who is one of its partners. Subsequently, the lease was extended till 19.01.2008 vide proceedings dated 20.01.1978. According to the petitioner, in view of the proceedings dated 20.1.1978, though the said Laxminarayana expired in the year 1984, it is entitled for lease up to 19.1.2008, since the lease is a heritable one. While the matter stood thus, consequent on the G.O.Ms.No.12 dated 4-1-2001, the third respondent-Mandal Revenue Officer (Urban), Vijayawada issued proceedings, dated 12-11-2001, directing the petitioner to vacate and handover the land in question to the Government. Aggrieved thereby, the petitioner filed a writ petition, being W.P.No.24291 of 2001, which was dismissed as withdrawn, by order dated 10-04-2002. Thereafter, the petitioner filed a representation dated 08-09-2004 before the second respondent, complaining about the illegal action of the third respondent and prayed for extension of the lease period.

3 . Learned counsel for the petitioner submits that a perusal of the letter of the Executive Engineer, K.C.Division, Vijayawada dated
06-11-1978, discloses that the Nursery was developed by

Sri M. Ramakrishna Rao, who is one of the partners of the petitioner, and as such

the lease should be renewed.

4. The question as to whether the lease has to be renewed or not, is not relevant for the purpose of this writ petition, though recommendations are made for renewal of the lease, since necessary orders are passed for due eviction of the unauthorized occupant. The Writ Petition filed by the petitioner questioning G.O.Ms.No.12, dated 04.01.2001 was dismissed as withdrawn without any leave for filing fresh writ petition.

5 . In the circumstances of the case, and especially, in the absence of any right conferred on the petitioner, it cannot squat over the property nor can invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

6. Accordingly, the Writ Petition is dismissed. No order as to costs.

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A.GOPAL REDDY, J.

Dated: 01.11.2004

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To
1 The Chief Engineer, Major Irrigation, Erramanzil, Hyderabad
2 The District Collector, Krishna District at Machilipatnam
3 The Mandal Revenue Officer (Urban), Vijayawada

4. 2CCs to the G.P. for Revenue, High Court of A.P., Hyderabad(OUT)

5. 2CD copies.